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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,993	08/18/2006	Malcolm David Boosey	ASNZ100002000	2472

22891 7590 05/27/2010
LAW OFFICE OF DELIO & PETERSON, LLC.
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EXAMINER

LUGO, CARLOS

ART UNIT	PAPER NUMBER
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3673

MAIL DATE	DELIVERY MODE
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05/27/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/589,993	Applicant(s) BOOSEY ET AL.	
	Examiner CARLOS LUGO	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,7-14,19-27 and 29-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3,7-14,19-27 and 29-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to applicant's RCE filed on March 15, 2010.

Claim Objections

2. **Claims 20, 29, 34 and 35 are objected** to because of the following informalities:

- Claim 20 is missing from the list of claims. It should appear as a cancelled claim.
- Claim 29, change the dependency of the claim, since claim 28 was cancelled.
- Cancel claims 34 and 35.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claim 21, 22, 34, 35 and 42 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21 requires that the actuator when actuated will cause movement of the moveable magnet.

Claims 22 and 42 requires that the actuator when actuated will cause a moving member to cause movement of the moveable magnet.

At the instant, it is unclear what invention the applicant is trying to claim. The specification is very clear that actuation of the actuator (26) will cause movement of a movable member (34). This movable member will move cause movement of a sliding member (31), the member that will move the moveable magnet out of alignment.

As clearly shown, the actuator is connected to 2 more members (34 and 31) in order to move the magnet. Further, the movable member is also the one that will move the latch member from the latching position. Therefore, correction is required.

As to claims 34 and 35, the claims depend from claim 7, which depend from claim 21.

Claim 21 requires a latching device that comprises a strike (42), a latch member (17), a biasing device (23), magnets (33 and 43) and an actuator (26).

Claims 34 and 35 requires that the moving device is a rack and gear. That limitation is presented in Figure 9, a device that does not requires a biasing member to bias the latch member. Also, the applicant has failed to demonstrate how the device as claimed in claim 21 is capable of having a rack and gear. Therefore, these claims are still withdrawn from consideration and immediate cancellation is required.

Allowable Subject Matter

5. **Claims 21, 22 and 42 would be allowable** if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Response to Arguments

6. Applicant's arguments filed on March 15, 2010 have been fully considered but they are not persuasive.

The current amendment provisionally overcome the 112 2nd paragraph issue with respect tot he actuator and the actuating function. However, the claims still present some 112 2nd paragraph issues that need correction.

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As to claims 34 and 35, the arguments are not persuasive. The claims are drawn to a species that is structurally different from the species claimed in claim 21. The specification fails to provide basis for the device as claimed in claim 21 that has a rack and a gear as an actuator. Immediate cancellation is required.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARLOS LUGO whose telephone number is (571)272-7058. The examiner can normally be reached on 10-7pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carlos Lugo/
Primary Examiner
Art Unit 3673

May 25, 2010.